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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,672	11/04/2003	Robin Petravic	61051- 0006	6483
27890	7590	07/27/2006	EXAMINER	
STEPTOE & JOHNSON LLP 1330 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036			LARSON, JUSTIN MATTHEW	
			ART UNIT	PAPER NUMBER

3727

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/699,672

Applicant(s)

PETRAVIC, ROBIN

Examiner

Justin M. Larson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5,6,8-11,27,28 and 31 is/are allowed.
- 6) ☒ Claim(s) 1-4,7,12-26,29,30 and 32-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 7, 12-18, 20-26, 29, 30, 32-35 and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (US 5,810,171) in view of Morris et al. (6,464,080).

Lee teaches a buffer system for the walls of a laptop bag, the bag of which has all the structural features of the bag claimed by applicant (see figure 2), in which the buffer 11 consists of springs 5 surrounded by open cell foam 3 and plates 7, 9. Lee however does not teach that the springs 5 can be in the form of one or more leaf springs. Morris teaches a cushioning structure 15' which is to be placed between an electronic device such as a laptop and a protective case (see column 9 lines 40-42) consisting of a leaf spring structure formed from plastic (see column 6 line 1) which may be formed with an interior channel and may be formed of any length necessary to provide the appropriate support for the electronic device. It would have been obvious to one of ordinary skill in the art to modify the buffer system of Lee by replacing the coil springs with one or more leaf springs as taught by Morris since both inventions teach alternative spring structures for cushioning electronic devices, such as a laptop, in a protective case.

As to the limitation in claims 16 and 34 setting forth that the spring is made from a polycarbonate material, it is noted that polycarbonate is a plastic material. Morris teaches that his spring may be manufactured from plastic. To choose polycarbonate as a spring material to arrive at certain cushioning parameters would have been an obvious choice to one of ordinary skill in the art.

3. Claims 19 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Morris et al. as applied to claims 1-4, 7, 12-18, 20-26, 29, 30, 32-35 and 37-39 above, and further in view of Golenz et al. (US 5,494,157).

It is old and well known to form a laptop bag in the form of a backpack (see figure 6 of Golenz) and would have been obvious to form the bag of Lee in this manner.

Allowable Subject Matter

4. Claims 5, 6, 8-11, 27, 28 and 31 are allowed.

Response to Arguments

5. Applicant's arguments filed 5/2/06 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the Lee and Morris et al. references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case,

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Examiner relied on the knowledge generally available to one of ordinary skill in the art. Lee teaches that a combination of coil springs and open cell foam located between a shock-sensitive article and the wall(s) of the article's transport receptacle helps to protect a shock-sensitive article from impact against the walls of the transport receptacle during transport. Similarly, Morris et al. teaches that leaf springs can be implemented between a shock-sensitive article and the wall(s) of the article's transport receptacle, also to protect the article from impact during transport. After reviewing the teachings of Lee and Morris et al., one of ordinary skill would certainly realize that coil springs and leaf springs both provide the shock-absorbing capability that helps protect an article from impact damage during transport and therefore would have found it obvious that the coil springs of Lee could be replaced with leaf springs. Whether or not Morris et al. teach away from the use of foam is irrelevant to the combination set forth in this Office Action, as no foam is being added to the Morris et al. device. Rather, only the spring structure is being taken from Morris et al. and implemented into the design of Lee, which already teaches the use of foam in combination with springs.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a

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reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Regarding Applicant's arguments with respect to the length and orientation of the leaf spring of Morris et al., Examiner points out that just by existing in place of the coil springs of Lee, the leaf spring(s) would inherently extend substantially parallel to the bottom wall, extend substantially across a length defined by the bottom wall, and extend a length defined by a side of the compartment, since these relationships have been presented so broadly. The lengths in question could be any small length along the walls. Regarding the parallel limitation, at least some axis through the leaf spring will be parallel to the bottom wall, and the leaf spring could certainly be referenced to based upon that axis.

Conclusion

6. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Friday, 8am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML
7/12/06



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